

**Before the  
Federal Communications Commission  
Washington, D.C. 20054**

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Consumer Federation of America, International	)	RM No. 9210
Communications Association and National Retail	)	
Federation Petition Requesting Amendment of	)	
the Commission's Rules Regarding Access Charge	)	
Reform and Price Cap Performance Review for	)	
Local Exchange Carriers	)	

**REPLY COMMENTS OF THE SBC COMPANIES**

Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell

("collectively, the SBC Companies") hereby respond to the comments filed on the petition for rulemaking filed by the Consumer Federation of America, International Communications Association, and the National Retail Federation (CFA). In their comments in this proceeding, the SBC Companies urged the Federal Communications Commission (Commission) to reject the CFA Petition as an untimely petition for reconsideration of the Access Charge Reform Order.<sup>1</sup>

The SBC Companies respond here to those comments supporting the CFA Petition. In particular, the SBC Companies respond to the AT&T Corp (AT&T), LCI International (LCI), Competitive Telecommunications Association (Comptel), World

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<sup>1</sup> Access Charge Reform, CC Docket No. 96-262, First Report and Order, (FCC 97-158) (Rel. May 16, 1997) (Access Charge Reform Order.)

Com, Inc (WorldCom), Excel Telecommunications, Inc. (Excel), Competition Policy Institute (CPI), Telecommunications Resellers Association (TRA), and American Petroleum Institute (API) comments filed in this proceeding. All of these comments are all too ready to "bury" the Commission's market-based approach in favor of a prescriptive approach because, as AT&T puts it, "interstate access charges far exceed competitive market levels." The CFA Petition and these commentators all ignore a key fact -- usage-based rates have already decreased as a result of access charge reform. All interexchange carriers (IXCs), however, have not flowed through their reductions to their customers.<sup>2</sup>

One reason that access charges have not yet decreased as much as some commentators may wish is that the Commission has not yet made explicit the implicit support contained in access rates. The SBC Companies have noted this point in their appeal of the Access Charge Reform Order. If the Commission had implemented the new Universal Service Fund (USF) procedures effective 1-1-98 as the Commission has outlined in that docket, access charges would have decreased even more than they already have in the past eight months.

All of the listed comments also plainly ignore another reason why access charges have not decreased more than they already have - the Commission has, to date, failed to issue the long awaited pricing flexibility order in the Access Charge Reform docket. Clearly, if the pricing flexibility granted to the price cap LECs is meaningful (at a minimum, including the ability to respond to customer requests for proposals, and

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<sup>2</sup> See attached letter from Mr. Roy Neel, USTA, to Chairman William Kennard, FCC, dated February 11, 1998.

contract pricing), many access customers will see further price decreases, and thus, the desire of the commentators for lower access rates will be fulfilled. Nevertheless, without meaningful pricing flexibility, this desire cannot be met.

Instead of burying the Commission's market-based approach, these commentators should recognize that the Commission must be allowed to issue its pricing flexibility order to see if the market-based approach can indeed work. It is all too easy to doom the Commission's approach when it has truly not yet all been revealed.

Nonetheless, the commentators would have the Commission abandon its market-based approach and not issue the pricing flexibility phase of that approach in light of adopting a new, prescriptive based approach which would entail further lengthy development of a new record.<sup>3</sup> This path must be avoided.

Southwestern Bell Telephone Company (SWBT), on its own, has attempted to lower certain access charges on more than one occasion but has been rejected in each of its attempts over the past few years. In SWBT's Transmittal No. 2633, SWBT responded to a request from AT&T for lower prices in light of the competition that AT&T described. SWBT filed rate reductions to respond to AT&T's request only to have AT&T reverse course and oppose those rates in the tariff proceeding.<sup>4</sup>

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<sup>3</sup> The AdHoc Telecommunications Users Committee (AdHoc) advocates a form of pricing flexibility for price cap LECs, but ties it to prescribing access rates at TSLRIC levels. It is difficult to understand how a price cap LEC is to be given any "pricing flexibility" if its rates are "reset" at TSLRIC levels. (AdHoc at p. 4.)

<sup>4</sup> Southwestern Bell Telephone Company Tariff FCC No. 73, CC Docket No. 97-158, Transmittal No. 2633, Order Concluding Investigation and Denying Application for Review (FCC 97-394) (Rel. November 14, 1997) (rejecting Transmittal No. 2633). SWBT has filed for reconsideration of this order.

Prior to the filing of Transmittal No. 2633, SWBT filed Transmittal No. 2433 in February 1995 in order to compete for business that MCI Telecommunications put out for bid. The Commission, at AT&T's urging, rejected this transmittal as well, but the U.S. Court of Appeals for the D.C. Circuit remanded this rejection to the Commission.<sup>5</sup>

If any of the commentators in this proceeding were serious about allowing access charge rates to fall, those parties should have supported SWBT's Transmittal Nos. 2433 and No. 2633. In light of the fact that some of the commentators have in fact opposed those rate reductions, one must suspect their motives here.<sup>6</sup>

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<sup>5</sup> Southwestern Bell Tel. Co. v. FCC, 100 F.3d 1004 (D.C. Cir. 1996).

<sup>6</sup> AT&T uses this proceeding to complain about SWBT's intrastate access rates in Texas. (AT&T at p.18.) Even though those rates are irrelevant to the issues raised in the CFA Petition, the SBC Companies note that AT&T is comparing "apples and oranges." AT&T implies that the Texas rate is high by comparing it to a proposed promotional rate in Oklahoma. SWBT has not yet filed any interLATA rates in Texas. SWBT's average switched intrastate originating MOU access rate in Oklahoma is \$0.012.

**CONCLUSION**

For the foregoing reasons, the SBC Companies respectfully request that the Commission reject the CFA Petition.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY  
PACIFIC BELL  
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Their Attorneys

February 17, 1998



February 11, 1998

The Honorable William E. Kennard  
Chairman  
Federal Communications Commission  
1919 M Street, NW  
Room 814  
Washington, D.C. 20554

Re: Customer Impact of New IXC Charges

Dear Chairman Kennard:

As you are well aware, on January 1, 1998 a whole series of regulatory changes became effective as the Commission continued its efforts to foster and accelerate competition in all telecommunications markets. In CC Docket No. 96-45, the new universal service fund was initiated which required that all telecommunications carriers contribute to the new schools and libraries and rural health care mechanisms as well as to expanded low income and rural, high cost and insular mechanisms. In CC Docket No. 96-262, the Commission began a much-needed restructuring of interstate access charges and reduced usage-sensitive interstate access charges. The Commission directed the price cap incumbent local exchange carriers (ILECs) to recover those charges instead through more economical and efficient flat-rate charges.

As a result of the restructuring of access charges, ILECs reduced the per-minute rates paid by interexchange carriers (IXCs) by approximately \$3 billion to reflect the full amount of the reductions in usage-based charges adopted by the Commission. These reductions became effective on January 1, 1998. Of course that amount does not include the estimated \$1.7 billion in access charge reductions resulting from the operation of price cap regulation which became effective on July 1, 1997. As you know, the January 1 restructuring did not bring any new revenues to the ILECs. The restructuring did provide the IXCs with two choices to benefit consumers. They could choose not to charge the new presubscribed interexchange carrier charge (PICC) to their end user customers, thereby recognizing the savings resulting from the lower access charges or they could apply the PICC to their end user customers and lower their long distance rates.

Chairman Kennard

February 11, 1998

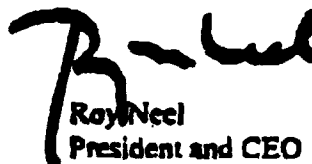
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It is apparent that the IXC's are doing neither, but instead are billing their end user customers for both their new universal service contribution as well as the PICC without reducing their per minute toll rates. USTA has been deluged with calls from its member companies, particularly its non-price cap members who have not instituted a PICC, whose customers are confused and outraged over these new bills. I understand that the FCC has received such calls as well. The PICC is characterized as a "carrier line charge" or a "national access fee". While it may be the IXC's option to assess these new charges to their end user customers, the IXC's should not be permitted to misinform their customers, through their 800 numbers, websites and/or billing messages that these new charges are attributable to local telephone companies or that the IXC's are not profiting from these changes.

The ILECs were ordered to lower the per minute interstate access charges to IXC's and they have done so. These reductions have not been accompanied by a reduction in long distance rates, so the IXC's are indeed making a substantial, new profit. Although USTA has limited access to IXC data, USTA estimates that while experiencing an annual increase in costs of approximately \$265 million as a net result of the universal service and access restructure decisions, the IXC's have increased charges to customers by approximately \$2.3 billion with no offsetting long distance decreases.

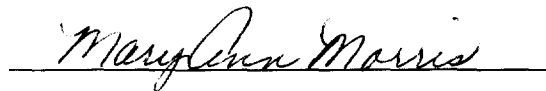
Customers deserve an accurate and complete understanding of what these new charges are and need to know whether they will see any reduction in their long distance rates as a result of the reductions implemented by the ILECs. USTA is working now to get accurate information on these changes to its members. USTA is also willing to assist the Commission in any way it can to get this information to the public.

Cordially,

  
Roy Neel  
President and CEO

**Certificate of Service**

I, Mary Ann Morris, hereby certify that the foregoing , "Reply  
Comments of Southwestern Bell Telephone Company" in RM No. 9210 has been  
filed this 17th day of February, 1998 to the Parties of Record.

A handwritten signature in cursive script, reading "Mary Ann Morris", is written over a horizontal line.

Mary Ann Morris

February 17, 1998